

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephen Abrams-Downey	Team: Squad #1	CCRB Case #: 201500486	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 01/22/2015 8:19 PM	Location of Incident: § 87(2)(b) and the 43rd Precinct Stationhouse	Precinct: 43	18 Mo. SOL 7/22/2016	EO SOL 7/22/2016	
Date/Time CV Reported Fri, 01/23/2015 3:32 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 01/23/2015 3:32 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Donald Hook	24812	920400	043 PCT
2. POM Johnathan Smith	02870	957174	043 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Donald Hook	Abuse: PO Donald Hook refused to provide his name and shield number to § 87(2)(b) inside § 87(2)(b).	§ 87(2)(b)
B.POM Johnathan Smith	Abuse: PO Johnathan Smith refused to provide his name and shield number to § 87(2)(b) inside § 87(2)(b).	§ 87(2)(b)
C.POM Donald Hook	Abuse: PO Donald Hook interfered with § 87(2)(b) dian § 87(2)(b)'s ability to record the incident inside § 87(2)(b).	§ 87(2)(b)
D.POM Johnathan Smith	Abuse: PO Johnathan Smith interfered with § 87(2)(b) ability to record the incident inside § 87(2)(b).	§ 87(2)(b)
E.POM Donald Hook	Abuse: PO Donald Hook threatened to notify Administration for Children's Services inside the 43rd Precinct Stationhouse.	§ 87(2)(b)

Case Summary

§ 87(2)(b) filed this complaint with the CCRB on January 23, 2015 via the Call Processing System (Board Review 01). § 87(2)(b) daughter, § 87(2)(b) recorded a portion of this incident on her cellphone and gave this footage to the CCRB (Board Review 02).

At approximately 8:19 p.m. on January 22, 2015, § 87(2)(b) and § 87(2)(b) son, § 87(2)(b) were inside the house § 87(2)(b) owns at § 87(2)(b), in the Bronx. § 87(2)(b) got into a dispute with § 87(2)(b) who rents an apartment in the building, because § 87(2)(b) changed the locks to his room and would not let § 87(2)(b) inside to make repairs. § 87(2)(b) called 911 to report this dispute and two uniformed police officers, PO Donald Hook and PO Johnathan Smith, arrived at the building. PO Hook and PO Smith spoke to § 87(2)(b) for five to ten minutes and then left the building. § 87(2)(b) made a second 911 call and PO Hook and PO Smith returned to the house after five minutes. PO1 went upstairs and again spoke with § 87(2)(b). PO Hook and PO Smith then walked towards the building's exit and § 87(2)(b) asked both officers for their names and shield numbers. Neither officer provided this information, but PO Hook told § 87(2)(b) to come with him and handcuffed him (**Allegations A and B**). § 87(2)(b) then attempted to record the incident with her phone. PO Hook and PO Smith both allegedly told her to put her phone away. When she refused to comply with these commands PO Smith told § 87(2)(b) that she was under arrest and handcuffed her (**Allegations C and D**). PO Hook and PO Smith placed § 87(2)(b) and § 87(2)(b) in police vehicles and transported them to the 43rd Precinct stationhouse. When they arrived at the stationhouse, § 87(2)(b) told PO Hook that she wished to call to her daughter. PO Hook allegedly replied that he would report her to child services (**Allegation E**). § 87(2)(b) and § 87(2)(b) were transported to Bronx Central Booking the following morning. § 87(2)(b) was charged with § 87(2)(b) while § 87(2)(b) was charged with § 87(2)(b) (Arrest reports Board Review 03, 04). Neither § 87(2)(b) nor § 87(2)(b) provided statements to the CCRB. § 87(2)(b) interview Board Review 05; § 87(2)(b) interview Board Review 06).

Mediation, Civil, and Criminal Histories

§ 87(2)(b) and § 87(2)(b) both rejected mediation § 87(2)(b) [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] A request for any notice of claim was sent to the Office of the Comptroller on June 16, 2015 (Board Review 08). To date, no response has been received.

Civilian and Officer CCRB Histories

- § 87(2)(b), § 87(2)(g)
- This is the first CCRB complaint involving either § 87(2)(b) or § 87(2)(b) (Board Review 10, 11).
- PO Donald Hook has been a member of the NYPD for seventeen years. He has had nineteen allegations made against him as part of eleven investigations. He has had one previous refusal to provide name and shield allegation made against him, which was closed as unsubstantiated (Board Review 12).
- This is PO Johnathan Smith's first year as a member of the NYPD. This is the first CCRB complaint against him (Board Review 13).

Findings and Recommendations

Findings

Allegation A—Abuse of Authority: PO Donald Hook refused to provide his name and shield number to § 87(2)(b) inside § 87(2)(b):

Allegation B—Abuse of Authority: PO Johnathan Smith refused to provide his name and shield number to § 87(2)(b) inside § 87(2)(b)

In her CCRB testimony, § 87(2)(b) stated that § 87(2)(b) asked both PO Hook and PO Smith for their names and shield numbers as they walked out of the building for the second time.

According to § 87(2)(b) neither officer responded to this request. Instead, she stated that PO Hook approached § 87(2)(b) told him to turn around, and handcuffed him.

§ 87(2)(b) testified that § 87(2)(b) asked PO Hook for his shield number two times. According to § 87(2)(b) PO Hook handcuffed § 87(2)(b) immediately after this request and did not provide his identifying information.

§ 87(2)(b) also provided cellphone video footage that she recorded during the incident. At the outset of this video, two uniformed police officers, PO Hook and PO Smith, are seen walking down a staircase. When they reach the bottom of the stairs, a young black male, identified by § 87(2)(b) as § 87(2)(b) can be heard saying, “Excuse me officers, can I get your badge number please and the same for you.” The man points to both officers as he makes this request. PO Hook responds, “I want to talk to you.” PO Hook then gestures towards § 87(2)(b) puts his hand on his shoulder, and walks off camera. The camera then lowers and the incident cannot be seen from this point. However, a male voice is heard saying, “What are you arresting me for?” A second male voice says, “Step back” multiple times.

In his CCRB statement, PO Hook stated that § 87(2)(b) told the officers that § 87(2)(b) had made several threats against him in recent days. § 87(2)(b) also alleged that § 87(2)(b) told him that he owned a gun. PO Hook intended to place § 87(2)(b) under arrest on the basis of these charges. The officers then went downstairs and handcuffed § 87(2)(b) PO Hook stated that § 87(2)(b) did not ask him or PO Smith for their names or shield numbers at this time.

After providing his initial statement, PO Hook reviewed the footage provided by § 87(2)(b) and acknowledged that § 87(2)(b) asked both officers for their identifying information. PO Hook stated that he did not provide this information at the time because there were several individuals in the surrounding area. He believed this was a potentially dangerous situation and he wished to handcuff § 87(2)(b) quickly and without incident. Finally, PO Hook stated that § 87(2)(b) would have seen his identifying information on his arrest paperwork, because he was his arresting officer (Board Review 14).

PO Smith generally corroborated PO Hook’s statement about the information provided by § 87(2)(b). He too said that the officers intended to arrest § 87(2)(b) from the time they heard § 87(2)(b) allegations. PO Smith initially testified that he did not recall whether § 87(2)(b) asked him and PO Hook for their names and shield numbers.

At the conclusion of his CCRB interview, PO Smith reviewed § 87(2)(b)’s video footage. PO Smith stated that he did not recall if he provided his identifying information at any point in the incident. He also stated that he did not provide the information immediately because he was

primarily focused on arresting § 87(2)(b). He also stated that the location was chaotic and many people were in the area (Board Review 15).

NYPD Patrol Guide procedure 203-09 states that an officer must provide his or her rank, name, shield number and command to anyone who requests this information (Board Review 16).

Based on the video footage provided by § 87(2)(b) the investigation determined that § 87(2)(b) asked both PO Hook and PO Smith for their names and shield numbers. Neither officer provided this information. Both officers testified that they believed they were in a potentially hostile environment, thus justifying their refusal. The two officers were greatly outnumbered as there were at least six civilians in the building's confined hallway. Furthermore, these civilians were already upset due to the dispute that had taken place between § 87(2)(b) and § 87(2)(b). Under these circumstances, PO Hook and PO Smith both stated that their goal was to arrest § 87(2)(b) and exit the building without creating further incident.

However, the video footage indicates that the situation was not particularly chaotic when § 87(2)(b) requested the identifying information. § 87(2)(b) himself was calm and stated his request very clearly. His voice was not raised and he did not make any movements towards the officers. Though other civilians can be seen behind PO Hook and PO Smith, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation C—Abuse of Authority: PO Donald Hook interfered with § 87(2)(b)'s ability to record the incident inside § 87(2)(b):

Allegation D—Abuse of Authority: PO Johnathan Smith interfered with § 87(2)(b)'s ability to record the incident inside § 87(2)(b):

§ 87(2)(b) stated that she took out her cellphone and recorded the incident after PO Hook and PO Smith handcuffed § 87(2)(b). Both officers told her to move away from them and put her phone away. § 87(2)(b) did not comply with these commands. PO Smith then allegedly told § 87(2)(b) that she was under arrest and handcuffed her. § 87(2)(b) was later charged with § 87(2)(b). § 87(2)(b) stated that she did not interfere with her brother's arrest at any point.

§ 87(2)(b) testified that § 87(2)(b) took out her cellphone and recorded the officers as they arrested § 87(2)(b). According to § 87(2)(b), § 87(2)(b) repeatedly asked the officers why they were arresting her brother. PO Hook then told PO Smith to handcuff § 87(2)(b). PO Smith handcuffed her without incident.

PO Hook stated that he and PO Smith arrested § 87(2)(b) because she attempted to prevent them from arresting § 87(2)(b). According to PO Hook, § 87(2)(b) grabbed her brother's shirt and tried to pull him away from the officers. PO Hook said that he ordered PO Smith to handcuff § 87(2)(b). PO Smith accomplished this without difficulty. PO Hook did not mention any

individuals recording any part of the incident. PO Smith’s testimony corroborated the statement provided by PO Hook. He did not see any individuals recording the incident.

As discussed above, § 87(2)(b) provided video footage of this incident. However, the recording ended prior to her arrest § 87(2)(g)

§ 87(2)(g)

Allegation E—Abuse of Authority: PO Donald Hook threatened to notify Administration for Children's Services inside the 43rd Precinct Stationhouse.

§ 87(2)(b) testified that she told PO Hook that she wished to call her daughter after she was transported to the 43rd Precinct stationhouse. In response, PO Hook allegedly said, “Now you’re worried about your kids.” § 87(2)(b) said that she was concerned about her daughter. PO Hook then told § 87(2)(b) that he would call child services to report her. § 87(2)(b) did not know why PO Hook would file a complaint against her.

§ 87(2)(b) did not go to the 43rd Precinct stationhouse and did not overhear these alleged remarks.

In his CCRB statement, PO Hook denied making these comments to § 87(2)(b). He also testified that he did not see any young children present at the scene of the arrest and he did not know that § 87(2)(b) had any children. PO Smith stated that he did not speak to either § 87(2)(b) or § 87(2)(b) at the stationhouse. He did not hear either PO Hook or any other officer threaten to report § 87(2)(b) to child services.

§ 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date